

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

EMERY STEVE BROWN)	
PLAINTIFF)	
VS.)	CASE NO. 3.05-CV-0681-
CLAIMS MANAGEMENT, INC.)	MHT-CSC
DEFENDANT)	

MOTION FOR LEAVE TO AMEND COMPLAINT

COMES NOW the Plaintiff and hereby moves this Court to grant leave to file an Amended Complaint. As grounds for this Motion, Plaintiff would show unto this Court as follows:

1. Plaintiff filed his original Complaint on June 14, 2005 in the Circuit Court of Randolph County with the same being assigned Civil Action No. 2005-093 and said Civil Action was removed to this Court on July 25, 2005. Plaintiff's original Complaint contains allegations of Fraud, Outrageous Conduct, and Suppression of Material Facts.
2. Based upon the ongoing Discovery in this matter Plaintiff now finds cause for another allegation.
3. On December 28, 2005, Plaintiff filed his Amended Complaint with this Court while neglecting to file this Motion for Leave to Amend, which is attached hereto as Exhibit A.

WHEREFORE, Plaintiff moves this Court to grant his leave to amend and accept his previously filed Amended Complaint as the same.

Respectfully submitted this the 29th day of December, 2005.

/s/John A. Tinney TIN005
Attorney for Plaintiff
Post Office Box 1430
739 Main Street
Roanoke, Alabama
(334) 863-8945

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by faxing or by depositing a copy of the same in the United States Mail, in an envelope with adequate postage prepaid thereon and properly addressed to him.

Jeffrey A. Brown
Carlock, Copeland, Semler & Stair, LLP
Post Office Box 139
Columbus, Georgia 31902-0139

This 29th day of December, 2005.

/s/ John A. Tinney TIN005
Attorney for Plaintiff
Post Office Box 1430
739 Main Street
Roanoke, Alabama
(334) 863-8945

Exhibit A

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AMENDED COMPLAINT

COMES NOW the Plaintiff, Emery Steve Brown, and amends the Complaint heretofore filed by adding the following in addition to Counts One, Two, and Three of the original Complaint:

COUNT FOUR

COMPLAINT FOR NEGLIGENCE

1. Plaintiff hereby incorporates the Statements of Facts, Count One, Count Two, and Count Three of Plaintiff's Bill of Complaint previously filed.
2. Plaintiff herein would state that Defendant owed Plaintiff a duty to timely process his request for approval of the surgery and to timely provide medical care.
3. Plaintiff would further state that Defendant breached their duty owed.

4. As a proximate cause of said breach and delay Plaintiff was caused to suffer the following injuries:

(a) Plaintiff did not have the surgery performed in a timely fashion as recommended by his treating physician;

(b) Plaintiff's rehabilitation was delayed causing a more excruciatingly painful and difficult recovery with decreased likelihood of as full of a recovery as he would have enjoyed had it not been for the delay;

(c) Plaintiff was caused to suffer permanent injury and disability;

(d) Plaintiff was caused to suffer severe emotional distress and anxiety while waiting for his surgery.

WHEREFORE, Plaintiff demands judgment against Defendant for all sums he is entitled to under the pleadings and proof contained herein including compensatory and punitive damages.

/s/ John A. Tinney TIN005
Attorney for Plaintiff
Post Office Box 1430
739 Main Street
Roanoke, Alabama
(334) 863-8945

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This 29th day of December, 2005.

/s/ John A. Tinney TIN005
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